

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DANIEL STEVE DIXON,

11 Plaintiff, No. CIV S-03-0262 DFL JFM P

12 vs.

13 G. LAVIN, et al.,

14 Defendants. ORDER

15 _____ /

16 Pursuant to the order of this court filed November 10, 2004, plaintiff has
17 submitted direct questions for the deposition by written questions of non-party P. Prudhomme.
18 Defendants have submitted objections to some of the proposed questions, and plaintiff has
19 submitted a response to defendants' objections. Defendants have objected to questions 8, 10-14,
20 18-21, and 24. Defendants propose a revision to question number 8, so that the question will
21 read: "What criteria does the DRB use to determine whether an LWOP inmate will be approved
22 for Level III placement." Plaintiff has no opposition to the proposed change. Accordingly,
23 question number 8 will be revised as proposed by defendants.

24 Defendants propose a revision to question number 10 to omit the reference to an
25 April 28, 2004 Sacramento Bee article and so that the question will read: "Plaintiff is classified
26 as Medium A custody and has zero classification points. Why would he be considered a risk to

1 the safety and security of the prison if he was transferred to a Level III facility?" Plaintiff objects
2 only to omission of the reference to the Sacramento Bee article. Defendants' objection to
3 reference to that article in the question is well-taken and will be sustained. The question
4 proposed by defendants will be tendered to the deponent.

5 Defendants propose revising question 11 to read: "Do the regulations of the
6 Department of Corrections permit the transfer of LOWP (sic) inmates with Close-B custody to be
7 transferred to Level III facilities?" Plaintiff has no objection to the proposed revision, which will
8 therefore be tendered to the deponent.

9 Defendants' objections to questions 12, 13, 14, and 18-21 are all sustained.
10 Defendants object to question 24, which asks whether the deponent is "willing to testify under
11 oath to these depositions" on the ground that the question is not reasonably calculated to lead to
12 admissible evidence. The deponent will be directed to sign the answer to the questions under
13 penalty of perjury but will not be required to separately answer question number 24.

14 The court now orders the clerk to forward a copy of the questions to the deponent
15 along with a subpoena issued by the court and a copy of this order. The deponent shall write out
16 the answers to questions 1 through 7, question 8 as amended by this order, question 9, question
17 10 and 11 as amended by this order, questions 15 through 17, and questions 22 through 23 on the
18 forms provided, swear to their truthfulness, and return them to the court. The clerk shall then
19 forward copies of the answers to the parties. Counsel for defendants are ordered to provide such
20 assistance as is required within the prison to effectuate this order. The deposition shall occur
21 within thirty days from the date of this order.

22 In accordance with the above, IT IS HEREBY ORDERED that:

23 1. The clerk of the court is ordered to forward the subpoena, a copy of this order,
24 and a copy of the written deposition questions (document #28) to P. Prudhomme, California
25 Department of Corrections, P.O. Box 942883, Sacramento, California 94823;

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2. Mr. Prudhomme shall return the questions pursuant to subpoena to the court no later than thirty days after the date of this order; and

3. Upon receipt of the deposition answers, the clerk of the court shall forward copies to the parties.

DATED: April 22, 2005.

John F. Morris
UNITED STATES MAGISTRATE JUDGE

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